

TRUSTEE COUNCIL RESOLUTION 04-2
ADOPTED May 6, 2004

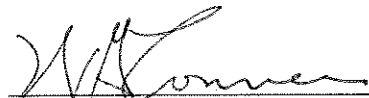
**MONTROSE TRUSTEE COUNCIL RESOLUTION REGARDING
Funding for the Montrose Settlements Restoration Program:
Supplemental Stable Isotope Work**

1. The National Oceanic and Atmospheric Administration; the State of California acting through the State Lands Commission, the Department of Parks & Recreation and the Department of Fish & Game; and the Department of the Interior, acting through the U.S. Fish & Wildlife Service and the U.S. Park Service are the natural resource trustees (Trustees) for natural resources injured by releases of DDT and PCBs into the Southern California Bight.
2. Sums recovered in the civil action *United States, et al. v. Montrose Chemical Corp., et al.*, No. CV 90-3122-R (C.D. Cal. 1990) are being held in the Department of the Interior Natural Resource Damage Assessment and Restoration Fund (DOI Restoration Fund) and the registry account administered by the U.S. District Court for the Central District of California.
3. The Trustees have entered into a memorandum of agreement (MOA), as modified, that establishes a Trustee Council (Montrose Trustee Council) composed of one voting member for each trustee agency. Under the terms of that MOA, the Montrose Trustee Council is authorized to disburse funds for activities related to the damage assessment and restoration process.
4. At its meeting on January 15, 2004, the Trustee Council reviewed the results of initial stable isotope work presented by U.S. Fish and Wildlife Service. Funding for the initial stable isotope work had been included as a part of annual advanced funding provided to U.S. Fish and Wildlife Service under the Trustee Council's 2003 annual budget. Based upon review of the initial work, the Trustee Council agreed to provide an additional \$10,700 in funding to the U.S. Fish and Wildlife Service from the DOI Restoration Fund for further stable isotope work as part of its bald eagle studies (see Attachments 1 and 2).
5. The Montrose Trustee Council resolves unanimously to authorize disbursement to U.S. Fish and Wildlife Service of \$10,700 from the DOI Restoration Fund for additional stable isotope work.
6. After completion of the work described in Paragraph 4 above, U.S. Fish and Wildlife Service will provide the Montrose Trustee Council with 1) a comprehensive report presenting the results of stable isotope work, and 2) cost documentation that summarizes costs incurred on the project and includes copies of supporting

documentation as required under the Trustees' cost reimbursement procedures.

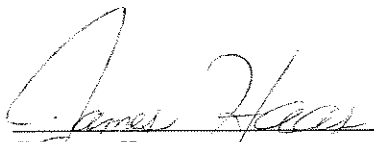
7. The Montrose Trustee Council reserves the right to reopen, revise, and/or revoke its approval of this Resolution should any material change be made to the sampling plan, or if the Trustees determine that the work performed pursuant to the plan is deficient.
8. The effective date of the Resolution shall be the date on which the last trustee signs this document.

CONCURRED in by the following who are the duly authorized Montrose Trustee Council Representatives:



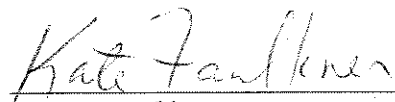
William Conner
National Oceanic &
Atmospheric Administration

5/6/04
Date



James Haas
U.S. Fish & Wildlife Service

6 May 2004
Date



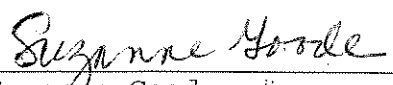
Kate Faulkner
National Park Service

6 May 2004
Date

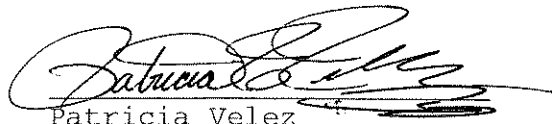


Jonathan Clark
State Lands Commission

5/6/04
Date


Suzanne Goode
Department of Parks &
Recreation

5-6-04
Date


Patricia Velez
Department of Fish & Game

5-6-04
Date

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**Montrose Settlements Restoration Program Trustee Council
Meeting Summary
January 15, 2004
Long Beach, California**

Attendance:

William Conner, NOAA	Dave Witting, MSRP Staff
Chris Doley, NOAA	Greg Baker, MSRP Staff
Collin Eagles-Smith, USFWS	Jim Haas, USFWS
Becky Stanton, USFWS	Jonathan Clark, CA State Lands
John Cubit, NOAA	Suzanne Goode, CDPR
Julie Yamamoto, CDFG	Kate Faulkner, NPS
Patty Velez, CDFG	Andy Yuen, USFWS
Annie Little, MSRP Staff	Jennifer Boyce, NOAA

By phone: Chuck McKinley, DOI Solicitor; Fred Schauffler, Roberta Blank, Sharon Lin, EPA

Meeting notes were prepared by Greg Baker.

Meeting notes from October 22 & 23, 2003 were approved.

EPA Status Report on Response Actions

We asked EPA to provide us a brief status on their response actions to aid in our restoration planning work. EPA is targeting a Record of Decision for end of 2005. 2009 is best estimate for when sediment cap (if selected) would be complete.

Conclusion from pilot cap is that the method is feasible from a technical standpoint, remaining to be determined is how much reduction of exposure one may attain from various cap scenarios. EPA is not looking to cap beyond 200 m contour line. EPA recently released its Ecological Risk Assessment (ERA). In coming months, EPA will model food web effects of various capping scenarios in effort to predict risk reductions.

It is difficult to predict efficacy of capping in reducing contaminant exposures for biota at highest trophic levels (e.g. raptors). There may be more reliability in predicting likely concentration reductions in commonly caught sport / subsistence fish that have led to advisories. EPA will be providing a response to Trustee comments on the draft ERA in preparation for the upcoming Palos Verdes Technical Information Exchange Group meeting on January 21, 2004.

TIER 1 and TIER 2 EVALUATIONS

Tier 1 criteria

Prior to the meeting, the MSRP staff provided the Trustee Council with the results of the Tier 1 analysis and draft of the RP section that outlined the process.

ACTION: Jen Boyce recommended that staff tie the Tier 1 and Tier 2 evaluation criteria as described in the Draft RP to the Scoping Document the Trustees issued in 2001. The Scoping Document listed evaluation factors that as described don't track exactly with the current criteria.

Bald eagles

Council agreed to approach that carries forward into Tier 2 three restoration "themes":

- Restore Bald Eagles on NCI
- Continue/ Change Current Bald Eagle Efforts on Catalina Island

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- Restore Bald Eagles on Mainland

Proposed approach is to recommend a specific decision for Catalina program in the public draft RP later this year; decisions on NCI and Mainland will be deferred until NCI feasibility study is concluded several years out.

Chris Doley recommended that the draft RP provide a little more description of why we should keep mainland bald eagle restoration option in.

Catalina Island marine mammal carcass removal study: We discussed a proposal developed by Dave Garcelon for a 3-year program to study the feasibility and effectiveness of removing marine mammal carcasses from Catalina Island. Discussion led to conclusion that we should publicly evaluate the marine mammal removal study as an option in RP, rather than pursuing it as a Trustee Council-authorized data gap study ahead of RP release.

Peregrines

No significant comments. There are 2 peregrine falcon projects that will be carried to Tier 2 analysis:

- Restore Peregrine Falcons to Southern Channel Islands
- Protect and Restore Peregrine Falcon Populations on Baja California Islands

MSRP staff presented a draft budget that was produced by Brian Walton for restoration of peregrine falcons on the southern Channel Islands.

Seabirds

No significant comments. Council approved following projects moving forward into Tier 2:

- Restore Alcids to Santa Barbara Island
- San Miguel Island Rat Eradication
- Protect Seabird Colonies at Southern Channel Islands
- Restore Ashy Storm-Petrels on Southeast Farallon Island
- Protect/Restore Seabird Populations on Baja California Islands
- Create/Enhance/Protect Brown Pelican Roost Habitat
- Entanglement Reduction Program
- Reintroduce Ashy Storm-Petrel to Anacapa Island
- Enhance Mainland Nesting Habitat for Colonial Seabirds

ACTION: Council requested that staff send copies of the individual description/score sheets developed for each restoration idea across all categories to all TC members and alternates, and to attorneys. No requirement for Council comments on these write-ups was explicitly identified; however, legal review was deemed important since these explanations for selection of restoration ideas/ approaches that move forward into detailed analysis will be placed into the administrative record. Staff will not place these write-ups into the Administrative Record until they have been reviewed and approved by at least one of the attorneys supporting the MSRP (either Katherine Pease or Kolleen Bannon.)

Fish/ Fishing

ACTION: For the MPA restoration idea: specify that we are carrying the actual NCI MPA through to Tier 2. Add a new, separate project idea into the Tier 1 table (making a total of 29): development of new MPAs in the SCB closer to the sites of lost fishing services. Rate it as its

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own idea, which due to infeasibility does not rate high enough to proceed to Tier 2. This is in lieu of incorporating the MPA concept into the artificial reef evaluation (we will still evaluate the concept of setting aside portions of artificial reefs for production as a management tool to increase success in restoring lost fishing services at other portions of reefs where fishing would be allowed).

Wetlands: Suzanne Goode asked whether it was our intent to limit consideration to the specific sites listed. We decided that we are not limited to a specific set of pre-identified sites. Our objective in this RP is to evaluate at a conceptual level that MSRP contribute to wetlands restoration efforts. The RP would identify potential sites, techniques, and target species. If wetland restoration is selected in the final RP, we will pursue specific projects in the post RP stage.

Stock enhancement: Recommend not identifying it as a separate category being brought forward into Tier 2; instead, it becomes a sub-approach within a habitat manipulation.

Kate Faulkner: Identified a concern about statement in Tier 1 write-up that reefs are a limited habitat type, which in and of itself shouldn't really be a consideration for our restoration. She requested that staff rework that language.

Conclusion: fish restoration concepts that are now agreed to move forward to Tier 2 are:

- Artificial Reefs
- Wetlands
- MPAs
- Public Education

Tier 2 Criteria

ACTIONS: Put nexus back on the list for Tier 2; this doesn't imply that any further analysis of nexus need be done beyond what was done for Tier 2, but it should be included among all the factors that form the overall analysis for each idea.

Put the criterion "Opportunities for collaboration" under the cost criterion as a subset of cost analysis. Rephrase the duplicate funding part of this consideration.

Consider time to provide benefits within Resource Benefit category.

One Council Member recommended that MSRP staff consider weighting different evaluation criteria.

ACTION: We agreed that MSRP staff would brief the Council by conference call at an interim stage within the Tier 2 analysis to show in actual practice how we're applying the criteria to real projects and provide for any midcourse corrections before working through the entire list.

**** Lunch Break ****

DATA GAP STUDIES REPORTS

Birds

Results of stable isotope work performed to date were presented by Collin Eagles-Smith and Beckye Stanton.

Collin and Beckye proposed that funds be allocated to additional SI work for Catalina, SF Zoo, and NCI eagles; proposed cost would be more than what the contingency funds (about \$3k) in

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the 2003 budget had anticipated – today's proposal entailed a total additional cost of about \$10,700.

Doing additional SI work holds the potential that we get a lot of information for relatively little cost, it could further clarify potential effects of marine mammal carcass removal, and there's potential that SI studies could substitute for more costly contaminant analysis if sufficiently strong correlations can be shown between SI results and contaminant results.

ACTION: Trustee Council agreed to fund the additional SI work; a resolution will be circulated for signature in the coming weeks.

Annie Little provided updates on Bald eagle studies including information from the 2003 summary report on the NCI work, and an update on activities at the SF Zoo Avian Conservation Center.

Fish

Dave Witting presented some preliminary analysis of fish contaminant data. Two issues raised.

1) Mercury concentrations in fish (based on analysis of composites rather than individual fish) are more variable than anticipated, and are high in some fish and some locations. The variability within species and across locations, and the high concentrations, are indicative of a need to analyze individual fish, so that the nature of the variability and its implications for setting consumption advisories can be better understood. This would not involve collecting more fish, nor would it involve pulling more fish already caught out of the freezer; Battelle still has sufficient amounts of homogenate to run the individual mercury analyses.

2) Spatial and species variability of concentrations of DDT, PCBs, and mercury were presented with the caveat that we haven't received all of the data yet. Despite not having all of the data, it is becoming apparent that additional targeted sampling and analysis may be important in filling out our understanding of the situation in certain important geographic areas, especially for restoration planning purposes. The example provided was that of concentrations of contaminants in kelp bass in Segment 15 (outside of the LA Harbor breakwater). We only caught 4 kelp bass from Segment 15, but those fish are all relatively low in contamination even though they are not as far from White Point as other locations where kelp bass contamination was found to be more variable and generally higher.

MSRP staff didn't request a decision from the Trustee Council at this meeting; instead, the Council gave direction to staff to bring back a specific set of recommendations through conference call at some point within the next several weeks.

Contracting

Greg Baker requested that the Council consider allowing NOAA to amend the contract with MEC to reimburse them for additional support provided subsequent to the completion of their main deliverable in June 2003, the Preliminary Planning Report. A decision was made not to renew this contract or issue them a new contract, as discussed at the last TC meeting. Council agreed in concept to providing limited additional funding given the work / assistance MEC provided to staff from July through October; after MEC identifies their hours, the request will be presented to the Council in the form of a resolution for funding (it will be combined into one resolution also containing the USFWS request for Stable Isotope funding).

As described in the 2004 budget, we've identified up to \$100K for a technical assistance contract for completing the RP/EIS/EIR. After discussion we agreed to obtain the services through a competition between 2 of the support contractors available through the NOAA Restoration Center: Louis Berger Group / URS, and TetraTech, Inc. A group was identified to evaluate the proposals: Annie, Dave, Greg, Jen, Patty, and Jim.

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Next Meeting

The next meeting will be May 5&6, 2004 (Council was requested to reserve two days, although we may only need one). It will likely be held in northern California, to be determined.

Analysis of Stable Isotopes of Carbon, Nitrogen, Sulfur

	# of samples	Cost per sample	Subtotal
Santa Catalina Island			
Bald Eagle – whole blood samples from fostered chicks	30	~\$50	1500
Terrestrial vertebrate/ 5 samples	5	~\$50	250
Marine fish / 5 samples	5	~\$50	250
Total Analytical Cost			\$2000
4.5% FWS pass-through rate			\$90
Overall Total			\$2090

Analysis of Stable Isotopes of Carbon, Nitrogen, Sulfur

	# of samples	Cost per sample	Subtotal
Santa Cruz Island			
Bald Eagle – whole blood samples (baselines, 24 birds + re-captures, ~12 birds)	36	~\$50	1800
Bald Eagle – feather samples (1 per bird; baselines, 24 birds + re-captures, ~12 birds)	36	~\$50	1800
Feral pigs/ 5 samples, muscle and adipose	10	~\$50	500
Marine fish / 4 species, 5 samples each	20	~\$50	1000
Marine mammals / 5 samples each, muscle and fat	10	~\$50	500
Macro-invertebrates / 3 species, 5 composite samples each	15	~\$50	650
Seabird carcasses / 5 muscle samples	5	~\$50	250
San Francisco Zoo			
Diet samples	10	~\$50	500
Whole blood samples from breeding adults	13	~\$50	650
Feather samples from breeding adults (1 per bird)	13	~\$50	650
Total Analytical Cost			\$8400
4.5% FWS pass-through rate			\$378
Overall Total (contingency)			\$8778